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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

Ben Edtl

Plaintiff,

v.

**Best Buy Stores, Limited Partnership;
Chris Davis; and Jane Doe.**

Defendants.

Case No. 22-cv-00003

**COMPLAINT FOR VIOLATION OF
CIVIL RIGHTS**

Demand for Jury Trial

INTRODUCTION

1. This case presents the following question: Can Best Buy force a customer to wear a face mask? The answer is: no.

2. Human beings have a fundamental and constitutionally protected right not to be coerced into wearing experimental medical devices.¹

3. Oregon has an administrative rule requiring individuals to wear face masks indoors. Best Buy is acting under color of law when it attempts to enforce this mask policy on its customers. Because Best Buy is acting under color of law its actions are constrained by the 14th Amendment to the United States Constitution, and it is liable for violation of those rights.

PARTIES

4. Plaintiff Ben Edtl is an individual residing in Tualatin, Oregon. Ben Edtl the founder and President of Free Oregon, a non-partisan grass roots movement dedicated to protecting individual rights and fighting tyranny in all of its forms.

5. Defendant Best Buy Stores, Limited Partnership (“Best Buy”) is limited partnership registered under the laws of Virginia with a retail store located at 7041 SW Nyberg St., Tualatin, OR 97062. Best Buy is registered to do business in Oregon as a foreign entity. Best Buy may be served through its registered agent CT Corporation System, 780 Commercial St SE Ste 100, Salem, Oregon 97301.

¹ See U.S. CONST. amend XIV, § 1.

6. Defendant Chris Davis is a Geek Squad Manager of the Best Buy retail store in Tualatin and may be served at his place of employment at Best Buy 7041 SW Nyberg St., Tualatin, OR 97062.

7. Defendant Jane Doe is a female employee of the Best Buy retail store in Tualatin and may be served at her place of employment at Best Buy 7041 SW Nyberg St., Tualatin, OR 97062.

JURISDICTION

8. This action arises under federal law, including 42 U.S.C. § 1983 and 1988, to redress the deprivation, under the color of state law, of rights, privileges, and immunities secured to Plaintiffs by the Constitution of the United States.

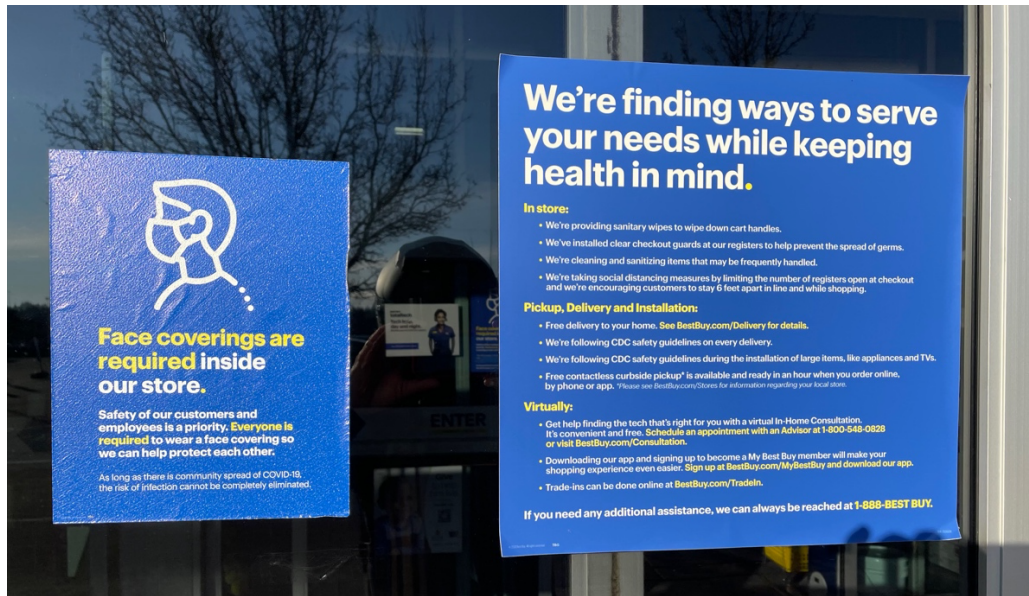
9. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 and 28 U.S.C. § 1343. This Court has personal jurisdiction over the Defendants because they have committed acts in this district that violate the rights of Plaintiffs protected by the Constitution and laws of the United States.

10. Plaintiffs seek damages for the violation of their rights under the Constitution and laws of the United States.

BACKGROUND

11. On December 17, 2021, Ben Edtl was shopping with his wife in the Best Buy retail store located in Tualatin, Oregon.

12. The Best Buy store posts a sign stating that everyone who enters must wear a face covering.



13. Mr. Edtl, asserting his rights protected by the United States Constitution and federal law, entered the Tualatin Best Buy store without wearing a mask. Mr. Edtl has shopped at the Tualatin Best Buy twice before in December 2021, without being accosted about wearing a mask.

14. There, Mr. Edtl was met by Jane Doe who insisted that Mr. Edtl put on a mask. Jane Doe is a young woman with her hair dyed bright red, who was working at the reception desk. Mr. Edtl said, “no thank you,” and proceeded into the store. Jane Doe chased Mr. Edtl down and aggressively said, “you need to leave the store right now.”

15. Best Buy refused to service to Ben Edtl because he was not wearing a face mask.

16. Jane Doe told Mr. Edtl that unless he left the store, that she would call the police. Jane Doe did call the police.

17. When the police arrived, they told Mr. Edtl, that unless he left the store, Best Buy would assert a trespass claim against him.

18. Mr. Edtl asked to speak with the manager, and the police officer escorted Mr. Edtl to see Chris Davis. Mr. Edtl asked Mr. Davis if he was familiar with OAR 333-019-1025. Mr. Davis said that he was. Mr. Edtl asked Mr. Davis what the provisions of the regulation require Best Buy to do. Mr. Davis could not say. Mr. Edtl informed Mr. Davis that the regulation requires Best Buy to put a sign on the door and make reasonable efforts to ensure that customers wear a mask. Mr. Edtl further informed Mr. Davis that Best Buy's efforts to force him to wear a mask were not reasonable and that they violated his civil rights.

19. Mr. Edtl then left Best Buy peacefully.

Best Buy is a State Actor

20. Best Buy is a private company. The 14th Amendment of the Constitution generally does not restrict the actions of private companies unless the action of the private company constitutes state action. When a private company is acting under the

color of state law, it is a state actor and subject to the restrictions of the 14th

Amendment.

21. Among other things, when a private company: (1) is a willful participant in joint activity with the State; or (2) has been coerced or encouraged by the State, to deprive a private individual of their rights under the United States Constitution, the private company is acting under color of state law and is subject to the restrictions of the 14th Amendment.

22. In attempting to force Mr. Edtl to wear a face mask, Best Buy was acting under the color of state law.

23. Administrative Rule OAR 333-019-1025 requires that: “Individuals, regardless of vaccination status, are required to wear a mask, face covering or face shield except as exempted in section (5) of this rule when in an indoor space.”

24. Administrative Rule OAR 333-019-1025 further provides: “A person responsible for an indoor space must: . . . (b) Make reasonable efforts to ensure customers, guests, visitors and other individuals comply with this rule within the indoor space.”

25. Administrative Rule OAR 333-019-1025 further provides: “Any person who violates any provision of this rule is subject to civil penalties of up to \$ 500 per day per violation.”

26. Best Buy's policy states that it will enforce mask mandates required by state or local order.

27. Best Buy was enforcing this rule when it insisted that Mr. Edtl wear a mask or leave the premises. Best Buy was willfully participating in a joint activity with the State of Oregon or it was coerced by the State of Oregon when it insisted that Mr. Edtl wear a mask or leave the premises. Best Buy was acting under color of state law when it insisted that Mr. Edtl wear a mask or leave the premises.

28. Jane Doe was enforcing this rule when she insisted that Mr. Edtl wear a mask or leave the premises. Jane Doe was willfully participating in a joint activity with the State of Oregon or she was coerced by the State of Oregon when she insisted that Mr. Edtl wear a mask or leave the premises. Jane Doe was acting under color of state law when she insisted that Mr. Edtl wear a mask or leave the premises.

29. Chris Davis was enforcing this rule when he insisted that Mr. Edtl wear a mask or leave the premises. Chris Davis was willfully participating in a joint activity with the State of Oregon or he was coerced by the State of Oregon when he insisted that Mr. Edtl wear a mask or leave the premises. Chris Davis was acting under color of state law when he insisted that Mr. Edtl wear a mask or leave the premises.

30. Face masks are medical devices. The use of face masks is only authorized under an experimental use authorization (EUA) issued by the FDA.

FIRST CLAIM FOR RELIEF

ILLEGAL COERCION OF HUMAN BEINGS TO WEAR EXPERIMENTAL MEDICAL DEVICE IN

VIOLATION OF THE DUE PROCESS CLAUSE OF THE 14TH AMENDMENT

(42 U.S.C. § 1983)

31. Plaintiffs reallege and incorporate by reference the foregoing allegations as if fully set forth herein.

32. The 14th Amendment, Section 1, provides:

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

33. The Due Process Clause of the 14th Amendment conveys to the citizenry of the United States rights not to be coerced into wearing experimental medical devices.

34. The State of Oregon's mask rules coerce citizens and Mr. Edtl to wear an experimental medical device in violation of the rights of citizens guaranteed under the 14th Amendment.

35. The State of Oregon's mask rules are unconstitutional.

36. Mr. Edtl asserts his constitutional rights against Defendants pursuant to 42 U.S.C. § 1983. Each of the Defendants, acting under the color of law, have violated Plaintiffs' constitutional rights.

SECOND CLAIM FOR RELIEF

VIOLATION OF RIGHT TO INFORMED CONSENT PURSUANT TO FEDERAL LAW

(42 U.S.C. § 1983)

37. Plaintiffs reallege and incorporate by reference the foregoing allegations as if fully set forth herein.

38. Pursuant to 21 U.S.C. § 360bbb-3, individuals have the option to accept or refuse use of a face mask.

39. The United States Constitution and federal laws are the supreme law of the land and supersede conflicting laws of the State of Oregon. Mr. Edtl's right to informed consent under 21 U.S.C. § 360bbb-3 supersedes Oregon's administrative rule OAR 333-019-1025.

40. Mr. Edtl had the absolute right to refuse to wear a face mask.

41. In violation of federal law, Defendants failed to acknowledge Mr. Edtl's right to refuse to wear a face mask.

42. Mr. Edtl asserts his rights under federal law against Defendants pursuant to 42 U.S.C. § 1983. Each of the Defendants, acting under the color of law, have violated Plaintiffs' right to refuse to wear an experimental medical device.

DEMAND FOR JURY TRIAL

43. Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff respectfully demands a jury trial of all issues triable to a jury in this action.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

- A. A judgement for damages against Defendants;
- B. Attorney fees pursuant to 42 U.S.C. § 1983;
- C. An injunction against Best Buy's enforcement of Oregon's mask mandate;
and
- D. Such other and further relief and the Court deems just.

Respectfully submitted,

Dated: January 3, 2022

By: s/ Stephen J. Joncus

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